IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 1650 of 2005

Between:

Jai Bheem Sankshema Vyavasaya Coolie Sangham (Regn.No.569/96), rep., by its Secretary Pandu Sriramulu s/o Talupulaiah, aged 42 years, r/o Kasavaripakalu, H/o Kondevaram U.Kothapalli Mandal, East Godavari District.

..... PETITIONER

AND

1 The District Collector, East Godavari at Kakinada.
2 The Mandal Revenue Officer, Pithapuram Mandal, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue an order, direction or writ, more particularly one in the nature of writ of mandamus declaring that the order LC(A) 118/2004 dt.1/10/2004 passed by the first respondent rejecting the petitioner's request for assignment of land measuring Ac.5.80 cents in S.No.679, Pithapuram, is unlawful and arbitrary, and further set aside the same and direct the respondents to cause adequate enquiry into the matter and decide the request as per the merits of the case in accordance with the Board Standing Orders, and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.K.BALAGOPAL

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.1650 OF 2005

ORDER :

The petitioner society claims that the members of the society are in occupation of a total extent of the land measuring Ac.5-80 cents situated in Sy.No.679 of Pithapuram Town, East Godavari District. It is stated that the said land originally belonged to one Jakkula Madhava Rao and the same was declared as surplus land in the proceedings initiated under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. It is further stated that the members of the petitioner society have been making representations to the respondents to assign the said land in their occupation. Earlier they filed W.P.No.17882 of 1999 and the same was disposed of by this Court on 30-08-1999 with a direction to the respondents to consider the representations made by the petitioners and to pass appropriate orders within eight weeks. It appears that since the respondents failed to implement the same, the petitioners have filed C.C.No.55 of 2001 and thereafter the respondents passed the

orders rejecting the request of the petitioner society on the ground that the proceedings were pending before the Land Reforms Appellate Tribunal. While so, L.R.A.No.10 of 2000 on the file of Land Reforms Appellate Tribunal was dismissed on 29-11-2002. Since the proceedings have been concluded, 16 members of the petitioner society including the petitioner herein have made further representations requesting for grant of pattas in their favour. In pursuance thereof, the 1st respondent herein passed the order dated 1-10-2004 stating that the request of the petitioner for assignment of the said land cannot be considered. The said order is under challenge in this writ petition.

The learned Government Pleader appearing for the respondents at the outset raised an objection stating that against the impugned order dated 1-10-2004 rejecting the request of the petitioner Society for assignment of the land in question, an Appeal lies to the Commissioner of Land Revenue under the provisions of the Board Standing Order-15 of the Andhra Pradesh Board Standing Orders and therefore this writ petition is not maintainable.

It is to be noted that Order 15 of the A.P. Board Standing Orders provides for an appeal against every original decision in darkhast cases whether it is passed by the Tahsildar, the Divisional Officer, or the Collector. In the light of the efficacious alternative remedy available under the Statute, without exhausting the said remedy, the petitioner cannot maintain this writ petition.

Accordingly without expressing any opinion as to the entitlement of the petitioner for assignment of the land in question, the writ petition is disposed of granting leave and liberty to the petitioner society to work out the alternative remedy of appeal as available under Board Standing Order-15 of The A.P. Board Standing Orders. If such an appeal is filed within four weeks from today, the same shall be considered in accordance with law and appropriate orders be passed within three months thereafter after affording due opportunity to the petitioner society. However keeping in view the plea of the members of the petitioner society that the members of the Society have been in possession of the land in question for the past two years and there are standing crops as on today, there shall be a direction that Status Quo

obtaining as on today as to the nature and possession of the lands in question shall be maintained till appropriate orders are passed by the appellate authority.

The Writ Petition is accordingly disposed of. No costs.

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04th February, 2005.

Note:- CC in one week.

(B/O)

gbs

To

1 The District Collector, East Godavari at Kakinada.
2 The Mandal Revenue Officer, Pithapuram Mandal, East Godavari District.

3. 2 CCs to G.P. for Revenue, High Court of AP Blddgs, Hyderabad (OUT).

4. 2 CD copies